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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

THERESA MARIE SIMEONE, Personal Representative of the Estate of Albert Francis Simeone, Jr., Deceased, and THERESA MARIE SIMEONE, In Her Own Right, and MARY ANN LENGYEL, Personal Representative of the Estate of George Lengyel, Deceased, and MARY ANN LENGYEL, In Her Own Right

vs.

BOMBARDIER-ROTAX GmbH, et al.

Plaintiffs,

Defendants.

CIVIL ACTION NO. 02CV4852 JURY TRIAL DEMANDED

ORAL DEPOSITION
JOSEF FUERLINGER
December 3, 2004

ORAL DEPOSITION OF JOSEF FUERLINGER, produced as a witness at the instance of the Plaintiffs and duly sworn, was taken in the above-styled and numbered cause on the 3rd day of December, 2004, from 9:43 a.m. to 5:26 p.m., before Michelle Hartman Solari, certified Shorthand Reporter and Registered Professional Reporter, reported by computerized stenotype machine at the offices of the Intercontinental Vien, Johannesgasse 28, Room 743, A-1037 Vienna, Austria, pursuant to the Federal Rules

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1 of Civil Procedure and the provisions stated on the
2 record or attached hereto.

3

4

APPEARANCES

5

FOR PLAINTIFFS:

6

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Mag. Renate Huber-Scheinecker, Interpreter

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 2 22 Type certificate data sheet 89
 from the FAA with regard to the
 3 9/14 engine
 4 23 List of service manuals and 98
 other service publications
 5 provided to plaintiffs,
 attorney in Rotax production
 6 that they sent to distributors
 7 24 Cover page of a 2002 California 126
 Power Systems catalog and
 8 certain excerpts taken out by
 plaintiffs, attorney after depo
 9
 25 Axticle about a Rotax V-6 155
 10 engine
 11
 12
 13
 14
 is
 16 17 18 19 20 21 22 23 24 25

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09:42:59 1 MR. CERSKI: Good morning,
 09:43:09 2 Mr. Fuerlinger. My name is Chris Cerski, and I
 09:43:12 3 represent the plaintiff in Simeon versus
 09:43:15 4 Bombardier-Rotax in Pennsylvania, in the Eastern
 09:43:19 5 District of Pennsylvania.
 09:43:21 6 I understand that English is not your
 09:43:23 7 first language; is that correct?
 09:43:25 8 A. That's correct.
 09:43:25 9 Q. German is your first language?
 09:43:27 10 A. That's correct.
 09:43:28 11 Q. And you have agreed to take this deposition
 09:43:30 12 in English today?
 09:43:32 13 A. Yes. With an assistance if I need to with
 09:43:34 14 the translator.
 09:43:35 15 Q. If at any time during the deposition you
 09:43:37 16 need me to slow down or to reDeat something or try to
 09:43:42 17 clarify it without using the interpreter, please ask
 09:43:45 18 me to do so at any time.
 09:43:46 19 A. Yes.
 09:43:48 20 Just a few --
 09:43:52 21 THE COURT REPORTER:
 Swearing in the
 09:43:53 22 witnesses?

09:43:55 23 MR. CERSKI: Yeah. Go ahead. And
 09:43:55 24 we're going to stipulate that she can swear in the
 09:43:58 25 witness.
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09:43:59 1 (Mr. Kelly nods)
 09:43:59 2 MR. CERSKI: The court reporter. I'm
 09:44:00 3 sorry.
 09:44:01 4 (Ms. Huber-Scheinecker sworn as
 09:44:01 5 interpreter and witness sworn)
 09:44:26 6 MR. KELLY: Reading and signing, do
 09:44:27 7 you want to put that on the record?
 09:44:30 8 MR. CERSKI: Sure. Go ahead.
 09:44:32 9 MR. KELLY: We have agreed that the
 09:44:34 10 witness will read and sign the transcript.
 09:44:39 11 MR. CERSKI: And do you want to
 09:44:39 12 reserve all objections to the time of trial except as
 09:44:42 13 to form?
 09:44:44 14 MR. KELLY: Yes.

is
 16
 17

JOSEF FUERLINGER,
 having been first duly sworn, testified as follows:
 EXAMINATION

09:44:46 18 Q- (BY MR. CERSKI: Mr. Fuerlinger, excuse me.
 09:44:48 19 There's a couple of rules of the deposition, fairly
 09:44:51 20 easy ones. I know you have taken a deposition
 09:44:53 21 before. The first is that this is a court reporter.
 09:44:56 22 She takes down on that machine everything that we
 09:44:59 23 say, but she can only take one down of us at one
 09:45:03 24 time. So I'll do my very best to allow you to finish
 09:45:06 25 your answer if you will do your very best to allow me

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Josef Fuerlinger - December 3, 2004
 Examination by Mr. Cerski

09:45:09 1 to finish my questions. Okay?
 09:45:11 2 A. Okay, yes.
 09:45:13 3 Q. Our goal here is to get a complete and
 09:45:16 4 accurate testimony. So, again, if you have any
 09:45:19 5 questions during the deposition, please don't
 09:45:21 6 hesitate to ask me. Okay?
 09:45:23 7 A. Yes.
 09:45:23 8 Q- If at any time during the deposition you
 09:45:25 9 need a break, please just ask. Okay?
 09:45:29 10 A. Thank you.
 09:45:29 11 Q. Okay. Mr. Fuerlinger, I'm going to show
 09:45:33 12 you what's marked as Exhibit A. This is the notice

09:45:38 13 of deposition that we provided to Bombardier-Rotax
 09:45:42 14 for this case. Have you seen this document before?
 09:46:11 15 (Witness reads document)
 09:46:13 16 THE WITNESS: Yes.
 09:46:13 17 Q. (BY MR. CERSKI): Okay. And with the
 09:46:13 18 deposition of --

09:46:14 19 MR. CERSKI: Is it 8 and 9?
 09:46:21 20 MR. KELLY: I think -- oh, they're
 09:46:22 21 together. It's two in a row.
 09:46:24 22 MR. CERSKI: Yeah, 8 and 9.
 09:46:27 23 Q. (BY MR. CERSKI): With the exception of 8
 09:46:28 24 and 9, which pertain to lawsuits which I will not be
 09:46:31 25 asking you questions about today, are you here today

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 Examination by Mr. Cerski

09:46:34 1 to testify on behalf of Bombardier-Rotax with regard
 09:46:38 2 to the areas that are outlined in that deposition
 09:46:40 3 notice?
 09:46:41 4 A. That's correct.
 09:46:41 5 Q. And do you possess the necessary knowledge
 09:46:43 6 to testify with regard to those -
 09:46:47 7 A. I'll do my best efforts.
 09:46:50 8 Q- And you agree to testify here on behalf of
 09:46:53 9 Bombardier-Rotax today?
 09:46:56 10 A. Yes.
 09:46:56 11 Q. From this point forward, do you mind if I
 09:46:59 12 just use the term "Rotax" to describe
 09:47:02 13 Bombardier-Rotax, which I think is now BRP Rotax?
 09:47:07 14 MR. KELLY: I think we will agree to
 09:47:09 15 that.
 09:47:10 16 THE WITNESS: Yes.
 09:47:12 17 Q. (BY MR. CERSKI): Are you taking any
 09:47:16 18 medications that would prevent you from truthfully
 09:47:18 19 testifying here today?
 09:47:20 20 A. No.
 09:47:20 21 Q. Should you be taking any medications that
 09:47:23 22 would allow to truthfully testify?
 09:47:26 23 A. No.
 09:47:26 24 Q- Is there any reason why you cannot
 09:47:29 25 truthfully or completely testify today?

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09:47:31 1 A. There's no reason.
 09:47:38 2 Q, Without divulging conversations that you
 09:47:41 3 may have had between yourself and Mr. Kelly or
 09:47:43 4 your -- or Bombardier's -- I should say Rotax's other
 09:47:47 5 attorneys -
 09:47:48 6 (Knock at deposition door)
 09:47:49 7 MR. KELLY: For water.
 12:02:18 8 (Discussion off the record).
 09:48:57 9 MR. CERSKI: I will repeat my
 09:48:59 10 question, at least the first part of it.
 09:49:01 11 Q. (BY MR. CERSKI): Without divulging any

09:49:02 12 conversations that you may have had between yourself
 09:49:04 13 and Rotax's attorneys, what did you do to prepare for
 09:49:07 14 this deposition today?
 09:49:09 15 A. I reviewed today the document of
 09:49:13 16 Appendix A, and I got the preparation in talking with
 09:49:18 17 my attorney.

09:49:19 18 When he says "Appendix,"
 09:49:21 19 he means -
 09:49:22 20 He means Mr. Cerski's content,
 09:49:24 21 yeah.

09:49:25 22 Q. (BY MR. CERSKI) Did you review any

09:49:27 23 documents before coming here, other than Exhibit A?
 09:49:32 24 A. I had a look on the contract of -- Lhe
 09:49:36 25 distributor contract between Rotax and our authorized

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Josef Fuerlinger - December 3, 2004
 Examination by Mr. Cerski

09:49:41 1 distributor, Kodiak, Nassau, Bahamas.
 09:49:46 2 Q. Did you review the distributor agreement
 09:49:49 3 between Rotax and Rotech?

09:49:54 4 A. No.
 09:49:56 5 Q. Any other documents that you reviewed in
 09:49:58 6 preparing for this deposition?

09:50:08 7 A. Yes.

09:50:08 8 Q. What would they be?
 09:50:09 9 A~ I quickly reviewed one of my latest
 09:50:27 10 depositions.

09:50:33 11 Q. And would that be a deposition taken by
 09:50:35 12 someone in my firm, The Wolk Law Firm, or would that
 09:50:39 13 be a deposition in another case?

09:50:43 14 A. In your law firm.

09:50:44 15 Q. Was it Kozial v. Bombardier?

09:50:50 16 A~ (Nods.)

09:50:51 17 MR. KELLY: You need to answer.

09:50:55 18 THE WITNESS: Yes.

09:50:56 19 MR. CERSKI: Thank you.

09:50:58 20 Q- (BY MR. CERSKI) Did you review Claude

09:50:59 21 Ferland's deposition that was taken in this case?

09:51:05 22 A. Not entirely. Just I got some information
 09:51:08 23 from my attorney.

09:51:12 24 Any other documents that you reviewed in
 09:51:14 25 preparation?

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09:51:15 1 A. Not as of my knowledge.

09:51:20 2 Q. Did you meet with any -- other than

did you meet with any employees of

order to prepare for the deposition?

09:51:30 5 A. I have a very good knowledge about Rotax,
 09:51:33 6 and I'm a long time with Rotax since 1990, so I have
 09:51:39 7 understanding about the business, about
 09:51:42 8 Rotax.
 09:51:43 9 Q. So -
 09:51:44 10 A. I did not particularly go in and look for

09:51:48 11 any information. I am -- I have enough knowledge to
 09:51:54 12 answer the questions.

09:51:55 13 MR. KELLY: Mr. Fuerlinger, if you can
 09:51:57 14 answer the question "yes" or "no", that would
 09:52:00 15 suffice.

09:52:00 16 Q. (BY MR. CERSKI): So the question was: Did
 09:52:03 17 you meet with any other employees at Rotax to prepare
 09:52:06 18 for the deposition today?

09:52:08 19 A. No.

09:52:08 20 MR. KELLY: There you go.

09:52:10 21 Q. (BY MR. CERSKI): Okay. For the record, cari
 09:52:27 22 you state and spell your name, please.

09:52:20 23 A. Josef, J-O-S-E-F, Fuerlinger,
 09:52:27 24 F-U-2-R-L-I-N-G-E-R. And actually, the U is normally
 09:52:43 25 in Austria with two dots on the top.

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09:52:46 1 Q. Okay. Thank you. What's your address?
 09:52:53 2 MR. KELLY: Well, he -- I don't think
 09:52:54 3 it's necessary for him to divulge his personal
 09:52:58 4 address. He's an employee of Rotax.
 09:53:00 5 Q- (BY MR. CERSKI): Okay. Can you give me the
 09:53:02 6 formal address, the mailing address. If I **wanted to**
 09:53:04 7 send something to Rotax, what's the mailing address
 09:53:08 8 of Rotax?

09:53:17 9 A. It's -- it's 4623, Gunskirchen,
 09:53:27 10 Welserstrasse Street No. 1.

09:53:33 11 Q. Okay. Let's just talk briefly about your
 09:53:37 12 educational background. Did you -- did you attend
 09:53:45 13 college?

09:53:49 14 A. In Austria we have a different education
 09:53:52 15 program and maybe different names

09:53:53 16 O- Okay.

09:53:54 17 A. -- as the definition of what you
 09:53:58 18 reference.

09:53:58 19 Q. Why don't you explain to me, then, what
 09:54:01 20 your educational background is.

09:54:05 21 A. I went -- I started with the beginning of
 09:54:09 22 my education, I went into the primary and
 09:54:13 23 secondary -- secondary schools in Austria; and later
 09:54:17 24 on I went to a special program where --- which is an
 09:54:24 25 engineering program to get my engineering degree.

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 Examination by Mr. Cerski

09:54:32 1 And that was a five-years program after I got the -
 09:54:39 2 it is finished.

09:54:39 3 Q_ Does the degree have a name? For example,
 09:54:43 4 in the United States a degree may be called a
 09:54:46 5 bachelor's degree or a master's degree or a doctorate

D9:54:49 6 degree. Does the degree have a name in Austria?

09:54:53 7 A. Engineer.

09:54:54 8 Q. So it's just a degree in engineering?

09:54:57 9 A. Yeah.

09:54:58 10 Q_ And did have -- after you received your

09:55:00 11 degree in engineering, did you get any further

09:55:03 12 schooling?

09:55:03 13 A. I went through some special program

09:55:05 14 training, some on -- for different areas.

09:55:09 15 Q_ Areas at Rotax or areas independent of

09:55:13 16 Rotax?

09:55:14 17 A. Independent.

09:55:16 18 Q. Can you just give me maybe a list of those

09:55:22 19 areas.

09:55:23 20 A. A special education program for a welding

09:55:28 21 engineer and some of the cost calculation programs

09:55:37 22 for reference.

09:55:41 23 Q. Okay. Let's talk about your work history.

09:55:46 24 How long have you been with Rotax?

09:55:52 25 A. Since beginning of 1990.

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Examination by Mr. Cerski

09:55:57 1 Q. And what position did you start in?

09:56:00 2 A. I started as a product manager.

09:56:11 3 Q. And after you were a product manager what

09:56:17 4 did you become?

09:56:18 5 A. Vice president for Rotax aircraft engines.

09:56:32 6 Q. And what year did you become vice president

09:56:34 7 of Rotax aircraft engines?

09:56:37 8 A. 1998.

09:56:42 9 Q. And are you still currently vice president

09:56:44 10 for Rotax

aircraft engines?

09:56:46 11 A. No.

09:56:47 12 Q. Okay. What's your current title?

09:56:50 13 A. Director for new business development.

08:08:29 14 (Discussion off the record)

09:57:19 15 Q. (BY MR. CERSKV: Okay. So you said you're

09:57:23 16 director for? I'm sorry. I didn't catch the last

09:57:25 17 part.

09:57:26 18 A. New business development.

09:57:29 19 Q. And when did you -- when did you enter that

09:57:32 20 position?

09:57:33 21 A. Ist of September, 2002.

09:57:40 22 Q. Okay. As vice president for Rotax aircraft

09:57:44 23 engines, what were your general responsibilities?

09:57:50 24 A. To take care of the whole activity of Rotax

09:57:56 25 aircraft engines within Rotax.
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09:58:13 1 Q_ Were you the one that negotiated the
09:58:14 2 contracts between Rotax and its aircraft
09:58:18 3 distributor -- or aircraft engine distributors?
09:58:25 4 A. This is when I was in a position of the
09:58:27 5 vice president, yes.
09:58:45 6 Q. And did you oversee how the engines were to
09:58:48 7 be marketed?
09:58:52 8 A. What is your definition of "marketed?"
09:58:53 9 Q_ Marketing, what I'm thinking of is
09:58:57 10 advertising, having the products be known,
09:59:02 11 positioning Rotax aircraft engines in a manner that
09:59:05 12 the engines would be sold.
09:59:09 13 A. Rotax is very good in the manufacturing of
09:59:18 14 Rotax aircraft engines, and we have not the strengths
09:59:31 15 or not the capability to -- to market the products;
09:59:36 16 therefore, that's the responsibility of our
09:59:40 17 authorized distributor.
09:59:46 18 Q. I'm going to talk about that more
09:59:49 19 specifically later. Why don't you tell me -- this
09:59:52 20 may give me a better idea.
09:59:54 21 What departments or areas reported to
09:59:56 22 you as vice president for Rotax aircraft engines?
10:00:01 23 A. we had a manufacturing department,
10:00:11 24 after-sales and sales department and quality
10:00:32 25 department,

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10:00:43 1 Q- Research and development?
10:00:48 2 A. At this given time frame when we started
10:00:50 3 there was standard products where we had not
10:00:56 4 integrated their research because there was no
10:00:59 5 research program available.
10:01:11 6 Q. **How about an engineering department?**
10:01:25 7 A. What is your engineering department?

10:01:29 8 Q. What I'm referencing is: Did you have a
10:01:32 9 department of engineers that reported to you as a
10:01:35 10 vice president for Rotax aircraft engines?

10:01:45 11 A. This has been integrated or established -
10:01:49 12 or I would say established later during the time when
10:01:54 13 I was in charge of the Rotax aircraft engine.
10:02:03 14 Q. Can you give me a time frame.
10:D2:10 15 A. Well, roughly 2001.
10:02:23 16 Q. And did you have a department or a person
1D:02:26 17 who worked directly for you that communicated with
1D:02:29 18 governmental authorities, such as the FAA or the
10:02:39 19 Austrian equivalent?
10:02:53 20 A. We don't have a person within the quality
10:02:54 21 department which did -- within the normal course of

10:02:57 22 business with the Austrian authority communication
 10:03:01 23 because there is only one central point for us for
 10:03:06 24 certification programs if we do such.
 10:03:11 25 0. Anyo ther departments that we haven't

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 Examination by Mr. Cerski

10:03:13 1 talked about here this morning that reported to you
 10:03:16 2 as vice president for Rotax aircraft engines?

 10:03:44 3 A. Not I'm recalling any.
 10:03:46 4 Q. okay. If at any time during the deposition

 10:03:48 5 you do recall or you just want to let me know, feel

 10:03:52 6 free to do that; and if you think of one and it pops
 10:03:55 7 into your head and you go, oh, that was it, you could
 10:03:58 8 just let me know that at the time.
 10:04:01 9 As director of new business
 10:04:03 10 development, is this specifically for the Rotax
 10:04:05 11 aircraft engines, or is this now specifically for
 1.0:04-08 12 Rotax in general?

 10:04:11 13 A. It's specific for everything else, what
 10:04:19 14 Rotax does today. It's basicaily out of the normal
 10:04:24 15 scope of business where Rotax is in.
 10:04:27 16 Q- Okay.

 10:04:28 17 A. I hope this is the right definition.
 10:04:30 18 Q. So when you're the director of new business
 10:04:34 19 development, it's for all of RoLax's engines,
 10:04:38 20 products, everything at Rotax?

 10:04:42 21 A. As the definition stands for, I'm looking

 10:04:46 22 for new business opportunities where Rotax is not yet
 10:04:50 23 in as of today.

 10:04:51 24 Q. Okay. Give me a broad definition of what

 10:05:42 25 Rotax does.

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 Examination by Mr. Cerski

10:05:45 1 A. Rotax is a manufacturer of a two-stroke and
 10:05:53 2 four-stroke gasoline engine.
 10:06:05 3 Q_ And **who are** Rotax's customers?
 10:06:14 4 MR. KELLY: Just as we proceed, I want
 10:06:16 5 everyone to understand that your questions, although
 10:06:19 6 posed in the present tense, are set within a time
 10:06:23 7 frame of 1998 --

 10:06:25 8 MR. CERSKI: Through 2002.

10:06:27 9 MR~ KELLY: -- through 2002.
 10:06:30 10 MR. CERSKI: Yes.
 1D:06:31 11 MR. KELLY: Do you understand that?
 I.D:06:33 12 THE WITNESS: 1998?
 10:06:35 13 MR. KELLY: -- five years: 1998,
 10:06:36 14 199, 2000, 2001, 2002.
 10:OG:44 15 THE WITNESS: You for the
 10:06:4S 16 clarification.
 10:06:45 17 MR. CERSKI: Sure.
 10:06:47 18 MR. KELLY: And if you need to hear
 10:06:48 19 the question again because I jumped in there, maybe
 10:06:51 20 the court reporter will read it back.
 10:06:54 21 THE WITNESS: Yes, please.
 10:07:01 22 (The record was read as requested)
 10:07:09 23 MR. KELLY: Do you want each name, or
 10:D7:11 24 do you want a general array of types of customers?
 10:07:13 25 Q. (BY MR. CERSKI)~Well, why don't you start

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10:07:15 1 with maybe the types, and then I can break them down
 10:07:19 2 if I want to get more specific.
 10:07:22 3 A. We make an engine for applications in water
 10:07:36 4 crafts, ATVs, snowmobiles, motorcycles, and some
 10:07:55 5 small application in industrial and air craft. That's
 10:08:08 6 a general.
 10:08:13 7 Q. Now, in the water craft, the ATV market and
 10:08:17 8 the snowmobile market, do you have any other customer
 10:08:23 9 than Bombardier, Inc., at this time period, 1998 to
 10:08:29 10 2002?
 10:08:30 11 A. No.
 10:08:49 12 Q- Just to clarify, so Bombardier, Inc., was a
 10:08:53 13 customer of Rotax for water craft, ATV and
 10:08:58 14 snowmobiles?
 10:08:59 15 A. That's correct.
 10:09:00 16 Q- And with regard to motorcycles, who were
 10:09:02 17 your customers?
 10:09:05 18 A. Aprilia and BMW.
 10:09:15 19 Q. Now, in your -- in Rotax's Responses to
 10:09:22 20 Plaintiff's Request for Production of Documents,
 10:09:25 21 there was a request that asked for a list of products
 10:09:28 22 that Rotax engines are -- are in, and one of the -
 10:09:32 23 in that list it said Harley Davidson motorcycles. Is
 10:09:40 24 that also one of the motorcycle manufacturers?
 10:09:46 25 A. Sir, can you show me the list, please.

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10:09:50 1 Q- Sure.
 08:08:29 2 (Discussion off the record)
 10:10:32 3 MR. CERSKI: I'm not going to mark
 10:10:32 4 this. I'm just going to refer to it.
 10:10:35 5 I'm showing the witness
 10:10:37 6 Bombardier-Rotax's Responses to Plaintiff's Request
 10:10:39 7 for Production of Documents and Things dated
 10:10:41 8 August 17th of 2004, and I'm referring to Request
 10:10:47 9 No. 40 and the answer provided. Actually, I believe
 10:10:51 10 theright language is Harley Davidson, Incorporated.
 10:10:57 11 MR. KELLY: Read the question
 first.
 10:10:58 12 (Witness complies)
 10:11:32 13 MR. KELLY: And your question again,
 10:11:34 14 please.
 10:11:34 15 Q. (BY MR. CERSKI)The question is -- and I
 10:11:36 16 may be assuming, well, we were talking about the
 10:11:38 17 motorcycles aspect of Rotax's business and you told
 10:11:41 18 me Aprilia and BMW are customers of Rotax.
 10:11:45 19 And my question was: Is Harley
 10:11:48 20 Davidson also a customer?
 10:11:51 21 A. TIm not a hundred percent sure in which
 1-0:11:56 22 time frame they were -- they were in or not. We're
 10:12:00 23 talking about the time frame 198 -
 10:12:02 24 Q. 8 to 2002.
 10:12:04 25 A. -- to 2002?
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10:12:07 1 Q. (Attorney nods.)
 10:12:08 2 A. They have purchased from -- Harley Davidson
 10:12:12 3 has purchased from Rotax in Austria some limited
 10:12:18 4 numbers of engines for military applications bike -
 10:12:23 5 sorry -- engine for limit -- I probably did not
 10:12:30 6 correct -- have the correct -- engines for
 10:12:34 7 application in a military bike.
 10:12:45 8 Q. Was there an agreement between Harley
 10:12:48 9 Davidson and Rotax to produce these engines?
 10:12:58 10 MR. KELLY: You mean a formal., written
 10:13:00 11 agreement or --
 10:13:02 12 MR. CERSKI: Yes, a formal, written

10:13:05 13 agreement.

10:13:06 14 THE WITNESS: I don't know.

10:13:07 15 Q. (BY MR. CERSKI): Is there a way to

10:13:13 16 determine the time period that Harley Davidson and

10:13:19 17 Rotax -- that Harley Davidson was a customer of

10:13:23 18 Rotax?

10:13:35 19 A. sorry, sir, can you specify the

question.

10:13:39 20 Q. Sure. What I'm asking you is:

Is there a

10:13:43 21 way at Rotax to figure out what time period Harley

10:13:47 22 Davidson was a customer of Rotax?

10:13:57 23 A. Yes.

30:14:01 24 Q. Is it typical for your customers like

10:14:19 25 Harley Davidson to have a written agreement before

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10:14:21 1 you produce engines for them?

10:14:29 2 A. This engine, what has been used for this

10:14:36 3 military bike, was an existing engine, and that means

10:14:42 4 out of the existing production program. And in this

10:14:50 5 case I would think there was a purchase order of

10:15:00 6 course in place, and this is for me a kind of -- it's

10:15:03 7 a written agreement of doing the business between

10:15:08 8 them.

10:15:10 9 Q. other than a purchase order, no formal

10:15:15 10 contract between Rotax and Harley Davidson?

10:15:18 11 A. I don't recall.

10:15:39 12 Q. Do you know what the actual product that

10:15:43 13 Harley David -- the military product that Harley

10:15:47 14 Davidson was producing? Do you --

10:15:55 15 A. As I said, that was a very limited

10:15:58 16 quantity, and currently we don't supply this engine

10:16:08 17 to Harley Davidson.

10:16:10 18 Q- So you don't know the product name that

10:16:13 19 they were producing for the military, for military

10:16:16 20 purposes?

10:16:17 21 A. No~

10:16:26 22 Q. If there was a contract between Harley

10:16:29 23 Davidson and Rotax between the time period of 1998

10:16:33 24 and 2002, would it still exist?

10:16:40

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MR. KELLY: Object to the form. You

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10:16:41
10:17:08

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can answer.
THE WITNESS know.

10:17:09
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10:17:26
10:17:32
10:17:42
10:17:45

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Q. (BY MR. CERSKI) have a document retention policy?
A. We have no document retention policy except those which is mandatory from the Austrian legal or law system.
Q. Do you know how many engines were sold to Harley Davidson?

10:17:53
10:17:55
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10:17:59
10:18:03

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A. I have a very weak idea.
Q. Okay. Can you give me an approximate number.
A. Maybe 400.
Q. would the purchase orders between Harley

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10:20:57
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10:21:21

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Davidson and Rotax still be available at Rotax?
A. Yes.
MR. CERSKI: We can go off the record for a minute.
(Discussion off the record)
Q. (BY MR. CERSKI: The last question I have for you, Mr. Fuerlinger, with regard to the Harley Davidson is: Did anyone from Rotax ever visit Harley Davidson at its corporate headquarters?
A. In this given time frame?
Q. Yes, 1998 to 2002.

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